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REPORT TO THE COMMITTEE ON RULES, FINANCE
AND INTERGOVERNMENTAL RELATIONS

ADDENDUM TO CITY ATTORNEY ANALYSIS OF PROPOSED BALLOT MEASURES

INTRODUCTION

This report is an addendum to the Report to the Committee on Rules, Finance, and Intergovernmental Relations dated October 16, 2003 [Report]. A portion of that Report analyzed a proposal by the Affordable Housing Task Force [Task Force] to increase the City of San Diego's existing real estate transfer tax to \$11. This report will analyze another proposal by the Task Force to issue \$1 billion in bonds to pay for the construction of City of San Diego [City] infrastructure and to impose an \$11 per month parcel tax on all real property in the City to pay for the debt service on the bonds. The first proposal is a one time tax imposed on property owners upon the successful sale of real property. The second proposal is a monthly tax levied upon parcels located within the City.

ANALYSIS

Article XIIC, section 2(a) of the California Constitution provides that "[a]ll taxes imposed by any local government shall be deemed to be either general taxes or special taxes." "No local government may impose, extend or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote." Cal. Const. art. XIIC, § 2(d). "Special taxes" are defined in article XIIC, section 1(d) to mean "any tax imposed for specific purposes including a tax imposed for specific purposes, which is placed into a general fund." The San Diego Charter section 76.1 similarly requires a two-thirds vote of the electorate for the imposition of a special tax. If the proceeds of a special tax are to be used to secure bonds or other debt obligations, the ballot measure needs to specifically authorize the proceeds of the tax for such purpose.

The Task Force has proposed that an \$11 per month parcel tax be imposed for the specific purpose of paying debt service on bonds. The bonds would be issued to construct public infrastructure. The proposed parcel tax would be a special tax within the meaning article XIIC,

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section 1(d). Consequently, a two-thirds vote of the electorate would be required for its imposition.

CONCLUSION

The City may impose an \$11 per month parcel tax to pay for the debt service on bonds issued for the purpose of constructing City infrastructure improvements. A two-thirds vote of the electorate, however, would be required for its imposition.

Respectfully submitted,

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